

The National Council on Competition and the Electric Industry

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A partnership between NARUC and NCSL to deliver high-quality and timely information on electric industry restructuring into the hands of decisionmakers

COUNCIL OFFERS LEGISLATIVE OUTREACH

To inform legislators of the details of utility deregulation, the National Council offers a program of technical assistance to state policy makers. In collaboration with the National Conference of State Legislatures' Energy Project, the National Council presents information on the electric industry in forms that are appropriate: general information presentations or detailed presentations with legislators and policy makers and on-site visits including discussions with representatives of various policy perspectives (for example, regulatory, economic, environmental, or legislative).

A first-hand account of such assistance is detailed in the next column.



HOECKER APPOINTED TO FERC CHAIR

On June 17, President Clinton appointed our own James Hoecker as Chairman of the Federal Energy Regulatory Commission. Jim is an active member of the National Council's Steering Committee, serving on its Executive Committee and participating in its activities in general. Chairman Hoecker is the first Commissioner to have once served on the Commission's staff. While a staffer, he was Assistant General Counsel for Gas and Oil Litigation, Assistant General Counsel for Rulemaking and Legislative Analysis, and a legal adviser to Commissioners Matthew Holden and Georgiana Sheldon. He was appointed as a FERC Commissioner in 1993 and has now been elevated to Chair.

Chairman Hoecker knows the issues surrounding the restructuring of both the natural gas and electric industries. He has published widely on energy and administrative law issues.

FERC Commissioners are appointed by the President and confirmed by the Senate. Each Commissioner serves a five-year term. We offer Jim our congratulations and wish him well. Jim will be presiding over significant utility restructuring policy decisions. This is a challenge for which he is well suited.

NEW HAMPSHIRE TECHNICAL ASSISTANCE PROGRAM A FIRST-HAND ACCOUNT FROM MATTHEW BROWN

As part of the Council's Legislative Outreach Program, NCSL and the National Council provided technical assistance on securitization to the New Hampshire House Technology and Energy Committee. Matthew Brown, NCSL, and David Wright, former Pennsylvania State Representative and sponsor of that state's restructuring legislation, participated on behalf of the two organizations. We think the following excerpts from Matthew Brown's trip report are indicative of the value of the Council's Outreach Program.

Prompted by a call from committee staffer Joel Anderson, David Wright and I were invited by the New Hampshire House. Representative Clifton Below, with whom I have worked extensively, arranged for this hearing and had asked us to come to Concord. Representative Jeb Bradley is the chair of this committee.

For context, recall that New Hampshire was the first state to pass electric industry restructuring legislation. Unlike California, Pennsylvania, or Rhode Island, New Hampshire's legislation was brief, giving a deadline after which the industry should be opened to competition, allowing for a PUC-led process for restructuring and setting out principles on which the PUC should base its restructuring plan. Along with several New England states, the New Hampshire PUC released its plan at the end of 1996. A lawsuit is delaying the plan.

The New Hampshire legislature, which is knowledgeable about restructuring, is focusing on a lot of "clean-up" legislation this year. Securitization legislation was part of that cleanup work.

BACKGROUND ON SECURITIZATION

Securitization is, at first blush, much like refinancing a house at a lower interest rate: utilities alter the time over which they are paying for



their stranded costs and pay for them at a lower interest rate. They do this by issuing low-risk, AAA bonds. The proceeds from the bonds may replace more expensive sources of capital, including existing debt and equity, or may be used to buy out or buy down power purchase contracts. The net effect of this refinancing would ideally reduce the final price tag of stranded costs, assuming a given level of stranded costs has already been determined. As with much of this entire area, the devil is definitely in the details, and it would not be hard to design a poor securitization plan.

Securitization is a way of issuing notes that are backed by an asset. As proposed in various state restructuring plans, that asset is a right, created by the legislature, to future revenues from stranded cost recovery charges. In general, a utility or an affiliate would issue the bonds and ratepayers would pay the principal and interest on the bonds through a non-bypassable wires charge on their bills.

The money collected to cover the principal and interest on the bonds typically is turned over to a "special purpose entity" which then makes payment on the bonds. The bonds are lending instruments that are very secure; in the event of the utility's bankruptcy, for instance, ratepayers would still be responsible for payment on those bonds. A variety of tax issues affect the amount of ratepayer savings available through the bonds. California was the first to use securitization to cover stranded costs. That proposal was

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LBNL SERVICES

Numerous persons at Lawrence Berkeley National Laboratory (LBNL) are involved in providing services to the National Council, including the production of this Newsletter. These services are provided as a courtesy by the U.S. Department of Energy. New to the team is **Stuart Chaitkin**, who recently began working as an aide to **Stephen Wiel**, the Council's Executive Director. Stuart has worked as a regulatory analyst for the California Public Utility Commission and has held positions with various energy companies.

LBNL began assisting the National Council in March 1997. A full agenda of developing the Council's policies and programs, conducting additional research, participating in outreach activities, preparing a bi-monthly newsletter, and developing and maintaining the National Council website will soon be in place. In addition to Stephen Wiel and Stuart Chaitkin, support is provided as needed by **Chuck Goldman**, **Joe Eto**, **Sam Webster**, **Steve Pickle**, **Ted Gartner**, and **Diana Duhnke**.

NATIONAL COUNCIL PUBLICATIONS ON ELECTRIC INDUSTRY RESTRUCTURING

RESEARCH REPORTS

Federal, State, and Local Tax Implications of Electric Industry Restructuring (Deloitte & Touche, 1996)

Assessing Impacts of Restructuring on Small Business, Residential, and Low-Income Customers (Roger D. Colton, 1996)

The Unintended Impacts of Restructuring (Dave Schoengold, 1996)

The Organization of Competitive Wholesale Power Markets and Spot Price Pools (Paul A. Centolella, 1996)

Stranded Benefits in Electric Utilities Restructuring (Nancy Brockway & Michael Sherman, 1996)

The British Electric Utility Restructuring Experience: History and Lessons for the U.S. (Michael C. Brower, Stephen D. Thomas, & Catherine Mitchell, 1996)

Regulation and Competition Without Privatization: Norway's Experience (Jan Moen & Jan Hamrin, forthcoming August 1997)

BRIEFING PAPERS

Customer Choice (Cheryl Harrington, 1996)

Stranded Costs (Eric Hirst & Lester Baxter, 1997)

Market Power (William Shepherd, forthcoming Summer 1997)

Restructuring Issues Associated with Nuclear Power Plants (William B. Marcus, forthcoming Summer 1997)

Stranded Benefits, Environmental Focus (Dr. Alan C. Lloyd, forthcoming Fall 1997)

Regional Issues of Restructuring (Sue Tierney, forthcoming Fall 1997)

DISCLOSURE SERIES

Full Environmental Disclosure for Electricity: Tracking and Reporting Key Information (David Moskovitz et al., July 1997)

Information Disclosure for Electricity Sales: Consumer Preferences from Focus Groups (Alan S. Levy et al., July 1997)

Policy and Legal Analysis of Data Confidentiality vs. the Public's Right to Know (Scott Hempling, July 1997)

More Focus Group Results Reports (forthcoming over time)

OTHER

A Glossary of Restructuring Terms

Editor's Note:

Contact the National Council at its Web sites —

www.erols.com/naruc/nccei.htm

or

www.ncsl.org/programs/esnr/nc-des.htm.

More information and reports are available from:

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Further information is available from:

Stephen Wiel at LBNL — swiel@lbl.gov

Richard Cowart at the Vermont Public Service Board — rcowart@psb.state.vt.us.

Suggestions for news items and announcements are welcome; contact **Stuart Chaitkin** (sdchaitkin@lbl.gov) (510/486-6990). LBNL's **Ted Gartner** produces the Newsletter. The newsletter is distributed by NCSL and NARUC. ❖

DISCLOSURE UPDATE

The National Council's Consumer Information Disclosure Project has completed a number of research projects and has many more under way. (Three final reports are included in the Council's publications list on page 2.) A series of regional disclosure workshops was held in June in Seattle, Minneapolis, and Philadelphia. Another very active task has been our close work with regulators and other stakeholders in New England in a joint effort to develop uniform disclosure materials for the six-state region. The New England effort is expected to conclude later this summer.

One phase of the National Council's consumer research project has relied on consumer focus groups. A focus group is a moderated discussion among a small number of pre-selected, "typical" consumers used to identify issues that are likely to be of concern to consumers in general. Focus groups are frequently commissioned by competitive businesses as part of the development of new products and services.

The focus group research has drawn on the same expertise used by the U.S. Food and Drug Administration when they investigated how the Food Facts nutritional labels should appear on packaged food products. To date, 14 focus groups have been undertaken in five states: four in New Hampshire, two in Massachusetts, four in California, two in Washington (state) and two in Colorado. The results demonstrate that while consumers are not experts in electricity, they are expert shoppers. For the most part, they have definite ideas about what they want to know about their electricity choices and the most useful way information should be presented to them.

Cost Effective cost (cents per kWh) for varying levels of use	<table><tr><th>5 cents</th><th>4.5 cents</th><th>4.0 cents</th></tr><tr><td>250 kWh</td><td>500 kWh</td><td>100 kWh</td></tr></table>	5 cents	4.5 cents	4.0 cents	250 kWh	500 kWh	100 kWh						
5 cents	4.5 cents	4.0 cents											
250 kWh	500 kWh	100 kWh											
Contract Length and fixed or variable price. See contract for details	2 Years Fixed Price Flat Rate												
Fuel Mix The electricity you are paying for was produced using these fuels	<table><tr><th>Fuel</th><th>Percentage</th></tr><tr><td>Coal</td><td>60.0%</td></tr><tr><td>Nuclear</td><td>20.0%</td></tr><tr><td>Gas</td><td>10.0%</td></tr><tr><td>Oil</td><td>2.0%</td></tr><tr><td>Renewables</td><td>8.0%</td></tr></table>	Fuel	Percentage	Coal	60.0%	Nuclear	20.0%	Gas	10.0%	Oil	2.0%	Renewables	8.0%
Fuel	Percentage												
Coal	60.0%												
Nuclear	20.0%												
Gas	10.0%												
Oil	2.0%												
Renewables	8.0%												
Air Emissions Nitrogen oxides and carbon dioxide relative to regional average	<p>Regional Average</p>												

Customers want information on price, reliability, fuel source and environmental impacts of the electricity offered to them. Most importantly, they want all sellers to "talk the same language" when providing these facts. There is a strong and consistent interest in having standardized displays of information for price at typical usage levels, fuel sources, and environmental emissions. Pie charts and bar graphs are preferred to displays that list ingredients by percentages. There is a willingness to pay a small cost to receive such standardized information, and most assume the cost would be rolled into the price of the electricity. Green certification or trademarks have received a mixed reception and in general are more credible when provided by the EPA instead of by some other entity.

Additional research now underway will help narrow the range of effective disclosure options. The draft label shown here represents the key lessons learned so far.

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designed to help achieve a 10% rate-cut goal. As it turns out, the California legislature has projected that securitization will cover perhaps 4% of that potential reduction. The rest of the savings are achieved as many of the higher priced power purchase contracts expire.

Since California enacted its legislation, we have seen securitization discussed in Texas, Connecticut, Maine, Michigan, Montana, Oregon, Rhode Island, Vermont, and other states. It has taken on the air of a "magic bullet" in some places. Although it can help reduce rates, it is not a magic bullet.

There are some very significant policy issues engendered by securitization as well.

NEW HAMPSHIRE PRESENTATION

The meeting was well attended, with approximately 15 legislators, plus staff, in attendance. Before our presentation, representatives from Lehman Brothers and Morgan Stanley discussed what securitization is and how a state should go about doing it. They were questioned about how great the savings might be as a result of securitization and about how the proceeds from a securitization might be used. In general, the line of questioning was detailed and reflected a fair understanding of the topic.

David Wright and I offered a different perspective on securitization. David's presentation detailed the politics of securitization in Pennsylvania, where securitization received little debate. Since that time, PECO's first stranded cost application has been dealt a blow by the Administrative Law Judge's colorfully written recommended decision. I spoke about how other states are looking at securitization.

Depending upon how it is structured, securitization can create a one-time decision point to determine a portion or all of the stranded cost claims that are to be recovered by a utility. These bonds are structured to be highly secure. They cannot be altered or reversed by later utility commissions. This secure bond rating moves the cost of money down as low as possible. The audience questioned how these bonds were any different from any other way of handling stranded costs. I replied that they in essence create an impregnable fortress, affording stranded cost protections not available in other circumstances. While one positive effect is low interest rates, a potential negative effect is that it requires a one-time determination of stranded costs with no possibility of later adjustment. There are ways to mitigate this problem of the one-time determination. A draft of Connecticut's legislation at one point proposed that only 70% of stranded assets can be securitized. This way, if the state is only somewhat certain of its stranded cost number, it has only committed to partly securitize the stranded costs. Other states may look at securitizing even less than that amount.

Another issue that has come up in several states is what to do with the proceeds of the bonds. Pennsylvania's legislation says that they cannot be used for the takeover of another utility. Some states are looking at restricting their use to those items that will reduce the cost of capital. Utilities may not concur on the need for restrictions on the use of the proceeds, but such restrictions may be required to prevent utilities from using the process for projects that are risky or not to the benefit of ratepayers.

The program also focused on the way that securitization has begun, in a number of states, to be used as a bargaining chip. Utilities want it. How does securitization fit into the larger

bargaining position of the people negotiating the restructuring deal? There are several examples, in Massachusetts and elsewhere, of securitization being used as a carrot to get utilities to do other things.

There were many questions from the audience, focusing on some details of what had happened in Pennsylvania, in other states, and on how these transactions should or might be structured.

The committee vice-chair was extremely positive about the program because previously the committee had heard little from anyone about the larger policy issues of securitization. Our objective was to give the legislature a sense of the broader policy context in which securitization is placed, and to give them that context by talking about how other states are looking at the issue. We did not take sides on the issue, but were able to illustrate the varying perspectives by talking about different states' approaches to securitization. All reports indicate that this was a helpful presentation. Providing a balanced view of securitization to legislators will continue to be an important outreach activity for the National Council and NCSL.

Given the high degree of interest from both PUCs and legislatures around the country on the topic of securitization, the National Council is sponsoring a research paper on this subject. The paper should be completed and available for publication by the end of the year.



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